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Chairman: Mr. Lelong (Haiti)

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The meeting was called to order at 3.10 p.m.

Agenda item 167: Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel (*continued*) (A/55/637)

1. **Mr. Yamamoto** (Japan) extended his condolences to the families affected by the recent tragic events in Abkhazia and Kabul, which brought home the importance of the issues that the Committee had before it under agenda item 167.

2. He was pleased to note that the report of the Secretary-General on the scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel (A/55/637) had finally been submitted for the Committee's consideration. All parties to a conflict in which a United Nations operation was deployed, including host countries, neighbouring States and non-State actors, must take appropriate steps to ensure the safety and security of the personnel involved in accordance with international law. He therefore welcomed the entry into force of the 1994 Convention but regretted that only 54 States had ratified it and that, with the exception of Croatia, no State in which United Nations peacekeeping forces were deployed had done so. He urged States which had not yet become parties to the Convention and, in particular, those which were members of the Security Council, to remedy that situation as soon as possible. The Security Council should also urge Member States having United Nations operations in their territory to sign and ratify the Convention, thereby acknowledging their political and legal responsibility to protect United Nations and associated personnel working within their borders.

3. The increasing complexity of peacekeeping operations made it crucial to expand the scope of the Convention to include the staff of humanitarian non-governmental organizations. He therefore endorsed the Secretary-General's proposed elements for a protocol that would ensure such protection and the idea of establishing an ad hoc working group to consider the matter. It was incumbent on all Member States to translate words into concrete action aimed at improving the security of the dedicated men and women working for global peace.

4. **Mr. Su Wei** (China) said that the recommendations contained in the Secretary-General's report merited serious consideration. Priority should be

given to implementing of the existing provisions of the Convention by incorporating them into the status-of-forces or status-of-mission agreements concluded between the United Nations and the host countries of peacekeeping operations. Specific procedures for the "trigger mechanism" for the applicability of the Convention should be developed; he had no objection to designating the Secretary-General as "certifying authority" to attest that a "declaration" of exceptional risk had been made by the General Assembly or the Security Council. The status of personnel participating in United Nations operations could be certified through agreements concluded between the United Nations and the relevant Governments or international organizations or, alternatively, between the Secretary-General of the United Nations or other international organizations on the one hand, and non-governmental organizations on the other.

5. His delegation considered the existing provisions of the Convention to be adequate and appropriate as to the scope of protection and conditions for application. Expansion of its coverage to include the staff of non-governmental organizations engaged in humanitarian activities but not part of United Nations operations could give rise to numerous difficulties in implementation. In the light of the constant attacks on, and frequent casualties among, personnel participating in United Nations operations, it was important to stress the role of the Convention in protecting their safety. His Government was making active preparations for accession to that instrument.

6. **Ms. Čačić** (Croatia) said that the conflict and crisis situations of the late twentieth century were characterized by a reversed pattern of victimization and by the variety of actors involved. As the number of emergencies in which the United Nations provided assistance and protection continued to increase, so did the number of security incidents; only a fraction of the perpetrators had been brought to justice. While the rights and duties of the parties to armed conflicts had been codified under international humanitarian law, a whole array of semi-conflictual crises and emergencies fell short of the definition of armed conflict. United Nations and associated personnel were involved not only in peace enforcement, but also in humanitarian operations, preventive diplomacy, peace-building and post-conflict engagement, often in dangerous environments that exposed them to violence, threats,

harassment, hostage-taking, arbitrary arrest, detention and even murder.

7. By imposing the duty to criminalize prohibited acts and undertake prompt, adequate judicial action under the "prosecute or extradite" principle, the Convention had filled the gap between the Geneva Conventions and the standard of treatment based on the Convention on the Privileges and Immunities of the United Nations and related instruments. The entry into force of the Rome Statute would further upgrade the existing protection regime. However, as the Secretary-General had noted, the "trigger mechanism" designed by the Convention made that instrument virtually inapplicable to United Nations humanitarian operations acting under a standing, statutory mandate, while the requirement of an institutionalized relationship between the United Nations and humanitarian agencies excluded many of the Organization's non-governmental organization partners from the scope of the Convention.

8. Her delegation therefore endorsed the proposals contained in the Secretary-General's report and was in favour of establishing a working group or other subsidiary body to develop an additional protocol that would eliminate the conditionalities that prevented the Convention's automatic application to all United Nations operations and to the types of humanitarian personnel not currently covered. Incorporation of the instrument's key provisions into status-of-forces or status-of-mission agreements would enhance their impact by making them binding States which were not parties to the Convention. Lastly, it was important to note that the impunity of perpetrators was a primary obstacle to ensuring universal respect for the blue flag; the light sentences handed down in the trial of those responsible for the savage killings of United Nations staff members in West Timor clearly sent the wrong message. Ultimate responsibility for enforcement of the Convention lay with Governments.

9. **Mr. Vámos-Goldman** (Canada) said that as civilians increasingly became targets in contemporary conflicts, those providing protection and assistance to them were also likely to find themselves under attack. Working under the United Nations flag was no longer a guarantee of protection, and the fact that humanitarian personnel continued to operate in such insecure environments was a testament to their dedication. While attacks on such workers were not new, they appeared to be increasing at an alarming rate.

10. The States hosting United Nations and humanitarian personnel had the primary responsibility for their safety and security and for prosecuting the perpetrators of attacks against them. Accordingly, Canada had ratified the Rome Statute and had incorporated its provisions into domestic law so that it could prosecute intentional attacks on humanitarian personnel. It would soon introduce legislation to ratify the Convention on the Safety of United Nations and Associated Personnel and urged Member States which had not yet done so to follow suit.

11. The Convention applied, however, only if the Security Council or the General Assembly had declared that there existed an exceptional risk; thus, United Nations and associated personnel who provided humanitarian relief to refugees or children outside the area of a peacekeeping operation and humanitarian personnel not associated with the United Nations were not protected under the Convention. His delegation therefore supported immediate implementation of the Secretary-General's proposals to the effect that he should recommend to the General Assembly or the Security Council that a declaration of exceptional risk should be made where the situation warranted and that the Convention's key provisions should be incorporated into status-of-forces or status-of-mission agreements.

12. His delegation also endorsed the recommendations that the Secretary-General should be designated as the "certifying authority" on matters arising under the Convention and that consideration should be given to developing an optional protocol extending the Convention's protection to all United Nations operations and to humanitarian personnel not formally associated with the Organization or empowering the Secretary-General to declare that an exceptional risk existed. He urged the international community to give serious consideration to those recommendations and strongly supported the proposal for the establishment of an ad hoc working group on the matter.

13. **Mr. Al-Kadhe** (Iraq) said that Iraq was anxious to ensure the security and safety of United Nations personnel and would support any consensus proposal to achieve that goal. United Nations personnel must adhere to the mandates entrusted to them, must refrain from any action that might prejudice their status as international civil servants accountable to the United Nations and must comply strictly with the provisions of Article 100 of the Charter.

14. In connection with paragraph 15 of the Secretary-General's report (A/55/637), it should be said that the activities of non-governmental organizations must have the approval of the countries concerned. An agreement between the United Nations and such an organization was not sufficient to give it legal standing. Without the approval of States, it would be difficult to include such organizations in any future agreement to extend the scope of legal protection. International personnel entrusted with United Nations activities were required to respect the principles of international humanitarian law.

15. Iraq believed that the full Sixth Committee should be the main forum for the discussion of the safety and security of United Nations personnel, and it saw no need to establish a working group for that purpose. There was an urgent need for further clarification and exchange of views concerning the report of the Secretary-General.

16. **Mr. Naidu** (Fiji) said that his Government was a signatory to the Convention; Fiji had supplied peacekeeping forces in at least eight areas of occupation, and nearly 40 of its personnel had lost their lives while protecting civilians in troubled areas. The current system of security management was highly unsuitable, as it had been designed to meet the requirements of the United Nations system 20 years previously. While the Convention filled some of those gaps, humanitarian non-governmental organizations and locally recruited personnel had become easy targets for brutal and even fatal attacks as a direct result of the nature of their work and of the lack of coverage provided by the Convention.

17. His delegation realized that some of the recommendations contained in the Secretary-General's report might not meet with the approval of all Member States; regardless of those differences, however, the matter required discussion. His own delegation endorsed the proposal that status-of-forces and status-of-mission agreements should include specific provisions for the improved safety and security of staff in accordance with the Convention. The fact that between January 1992 and September 2000, 198 staff members had been killed and 240 taken hostage or kidnapped, most of them under brutal circumstances, could not be considered normal. It was not enough to give staff hardship pay and to expect those not covered under the Convention to protect their own lives, particularly when the nature of their work was

essentially the same. As a first step, his delegation supported the proposal to establish an ad hoc working group to give due consideration to the matter.

18. **Mr. Biato** (Brazil) announced his delegation's endorsement of the statement made by the delegation of Chile on behalf of the Rio Group. An exponential rise in the number and intensity of regional conflicts due to a variety of causes, numerous casualties and an unprecedented upsurge of violence born of deprivation and frustration had been worrying features of the last decade. Over the same period, the United Nations had stepped up its efforts to bring peace and stability to many strife-ridden areas. As United Nations personnel had inevitably spearheaded those operations, they had sustained many injuries, and despite the entry into force of the Convention on the Safety of United Nations and Associated Personnel in 1999, the figure was still going up at an alarming rate.

19. His delegation therefore thanked the Secretary-General for his report (A/55/637), which underscored the sad reality that, around the world, United Nations staff were still being attacked and killed with almost complete impunity. Dramatic events in the last few days had shown how risky the work of peacemakers was. Hence there was clearly a need to bolster the security of personnel and enhance the effectiveness of the Convention.

20. His delegation wholeheartedly supported the suggestion that key provisions of the Convention should be included in future status-of-forces and status-of-mission agreements in order to improve the safety of personnel, since it was consistent with the thrust of the second report of the Security Council Working Group on Peacekeeping Operations (S/2001/900).

21. While such measures would go a long way towards overcoming the limitations and inadequacies of the existing regime for protecting United Nations and associated personnel, it was only appropriate to draw attention to the plight of other groups of persons, like humanitarian workers and locally recruited personnel, who constituted most of the casualties in the ongoing violence. The existing legal framework offered by international humanitarian law was woefully inadequate when it came to defending those groups, who had to rely on the credibility and effectiveness of their work to ensure that they did not become targets of unprovoked attacks.

22. His delegation had taken careful note of the additional recommendations and looked forward to engaging in a constructive dialogue to address the urgent concerns set out in the Secretary-General's report. It considered that those issues should be taken up by the Sixth Committee in an ad hoc working group during the fifty-sixth session of the General Assembly, since that would be an ideal forum to secure the necessary support for the Convention so that all relief workers could go about their work in peace and safety.

23. **Mr. Manguera** (Angola) said that, although his delegation regarded the Secretary-General's report (A/55/637) as a good basis for discussion, it did have some concerns about the proposals made in that document. Angola condemned the violence and attacks directed against individuals participating in field missions and made every effort to protect all personnel engaged in security and protection operations. That was why his country usually signed special protocols on the subject with the United Nations. His delegation did not, however, understand why a Government should grant special status to a small group of its own population because they were working for the United Nations, since a Government must, by law, protect all its citizens and guarantee their safety.

24. Angola had difficulty in accepting the ideas concerning locally recruited personnel and the granting of special protection to the staff of non-governmental organizations. Any such organization working in Angola had to be registered with the Ministry of Justice and to fulfil certain legal conditions; consequently his delegation was not in favour of allowing any non-governmental organization chosen by the United Nations to act in a country without the consent of its Government. His delegation would prefer an agreement between the potential host Government and the United Nations, where both sides could determine the scope of obligations in an operation. His country also had misgivings about the actual feasibility in wartime of determining to whom a person responded.

25. As a country where humanitarian relief played a big role and where the latter was supplied by the many foreign and locally recruited staff employed by non-governmental organizations and the United Nations, Angola was aware of the need to strengthen the security of such personnel; all sides had to adopt a cautious approach, however, in order to reach a common position. The conclusion of a protocol as

proposed in the report was still premature, as more reflection on the subject was required.

26. **Mr. Hetesy** (Hungary) said his delegation fully supported the European Union's statement on the scope of legal protection under the Convention. On 8 October, nine members of the United Nations Mission in Georgia (UNOMIG), including one Hungarian, had been killed in Abkhazia. That outrageous crime had not only added to the ever-lengthening fatality list, but also served as an infamous example of the problems caused by the inadequacies of the protective regime introduced by the 1994 Convention. UNOMIG had always been a difficult peacekeeping operation because its personnel had been attacked, bombed, harassed and kidnapped and, despite the adoption of Security Council resolution 1364 (2001) just two months earlier, tragedy had struck again.

27. Hungary, as a party to the 1994 Convention and as a troop-contributing country, was entitled to expect that the perpetrators of the above-mentioned crimes would be brought to justice. Yet it was plain that the Convention carried no weight with parties to conflicts because of the shortcomings in it, which were listed in the Secretary-General's report (A/55/637). That was an untenable situation, and for that reason the Committee had a moral duty to examine the report with a view to improving the existing framework. His delegation therefore supported the establishment of a working group to that end and, as an immediate measure, the inclusion of the elements of the Convention in status-of-forces and status-of-mission agreements.

28. **Mr. Mannan** (Bangladesh) expressed his delegation's condolences for the previous day's incident in Georgia.

29. As a provider of significant numbers of peacekeeping personnel, his Government was anxious to ensure the greatest possible protection to all parties concerned under the Convention. He deplored the continuing attacks on United Nations and associated personnel and drew attention to the vulnerability of locally recruited personnel to acts of physical violence, abduction, hostage-taking, kidnapping, harassment and illegal arrest and detention. Bangladesh was a party to the Convention and hosted many humanitarian and community projects carried out by intergovernmental, governmental and non-governmental organizations in cooperation with various United Nations agencies. Thus, many of its citizens were engaged in United

Nations sponsored activities, often without coverage under the Convention; such an anomaly should be addressed immediately by expanding the scope of legal protection under the Convention.

30. He welcomed the Secretary-General's report and endorsed the proposal to develop an optional protocol that would extend the Convention's scope and ensure its automatic application to all United Nations operations and categories of personnel not currently covered. In principle, he endorsed the suggestion to dispense with the requirement of a "declaration" as a condition for the Convention's applicability and the interim measures suggested in the report. Lastly, he called on member States to become parties to the Convention and to support the immediate establishment of an ad hoc working group in order to help the United Nations and its agencies fulfil their commitment to the safety of staff members, both permanent and temporary, and of associated personnel.

31. **Mr. Abdalla** (Sudan) said that his delegation welcomed the report of the Secretary-General (A/55/637) and believed that it was essential to accord the utmost importance to the safety of those working in the relief and peacekeeping fields. The unique agreement concluded by the Sudan and the United Nations in connection with Operation Lifeline Sudan could serve as a model for others on the regulation of relief work and the protection of those engaged in it. The Government of the Sudan had also taken an unprecedented step when it had signed the 1998 Rome agreement with the rebel movement in the southern Sudan with a view to providing greater protection to humanitarian relief workers.

32. While, by their nature, countries and Governments could be held accountable for compliance with the relevant rules governing the protection of those engaged in humanitarian work, non-State actors continued to show complete disregard for them. The atrocities committed by the Sudan People's Liberation Army in the southern Sudan, including the murder of four workers with the International Committee of the Red Cross, would readily come to mind.

33. The small number of States that had acceded to the Convention on the Safety of United Nations and Associated Personnel clearly reflected a lack of agreement on its substance. Most States had preferred not to accede, thus expressing their genuine concerns in that regard.

34. His delegation shared the view that there should be a further general exchange of views on the topic, and it had reservations with regard to any hasty measures to form a working group to produce an additional protocol. It was convinced that other steps could be taken to meet the concerns currently being raised.

35. The Sudan renewed its commitment to its position of principle advocating respect for the norms of international humanitarian law, bilateral agreements and national legislation on the part of all parties involved in humanitarian assistance and peacekeeping operations, and it called for full account to be taken of the guiding principles for humanitarian assistance annexed to General Assembly resolution 46/182.

36. **Mr. Hoffmann** (South Africa) said that his delegation was deeply concerned by the dangers and security risks faced by United Nations and associated personnel at field level and agreed that everything possible had to be done to ensure their safety. While the 1994 Convention had some shortcomings, it constituted an important contribution to international law on the legal protection of persons participating in humanitarian operations. South Africa was therefore holding consultations with a view to acceding to the Convention.

37. His delegation thought that the proposal empowering the Secretary-General to issue a declaration to trigger the protection mechanism was helpful. The option to amend the Convention, rather than draft a new protocol, should be explored; the suggestion that the scope of the Convention should be extended to humanitarian personnel not under contract with the United Nations required careful study, however, since it raised some complex legal issues. It would give enhanced protection to all humanitarian personnel, regardless of their relationship with the United Nations, whereas other civilians in a conflict zone would have to rely on the Geneva Conventions. It would also be very difficult to incorporate such provisions into domestic legislation. The practical implications of having two separate protection regimes should be investigated, possibly by the International Law Commission.

38. If the Convention as it stood was not working well, it seemed unlikely that amendments expanding its scope would serve the desired purpose, and the possibility of a protocol to remedy inadequacies should

be discussed. Similarly, the option of using the review mechanism in article 23 should be considered, rather than immediately embarking on a new drafting exercise. It was possible that widening the scope of the Convention might weaken the protection currently enjoyed by personnel covered by it and that some non-United Nations humanitarian programmes would have to make a conscious decision to remain outside the United Nations umbrella protection in order to preserve their neutrality.

39. His delegation had no fixed views on whether the issues raised should be examined by the Sixth Committee or by an ad hoc group of the Committee.

40. **Mr. Kittichaisaree** (Thailand) said that since the peacekeeping operation in East Timor was under Thai command, his country had a strong interest in ensuring the safety of United Nations and associated personnel.

41. His delegation thought that the Secretary-General's report (A/55/637) was comprehensive, well-reasoned and raised issues of fundamental concern. The recommendation that key provisions of the 1994 Convention should be incorporated into status-of-forces and status-of-missions agreements was a sensible way of ensuring that the crucial clauses of the Convention would apply even when the host State was not a party to the Convention.

42. The proposals aimed at securing greater protection in risky non-peacekeeping operations and enabling the Secretary-General to recommend the adoption of a declaration of exceptional risk to the General Assembly or the Security Council had merit, as did the suggestion that the Secretary-General should be designated "certifying authority".

43. Although there were good reasons for drafting an instrument to protect the staff of humanitarian intergovernmental and non-governmental organizations not formally linked to the United Nations, in-depth consideration would have to be given to ways of granting them adequate protection while maintaining their independence. Thought could be given to a protocol to the Convention so as to extend its scope; in addition, an ad hoc committee might be a useful means of making sure that such matters, which were of utmost importance, received the attention they deserved.

The meeting rose at 4.30 p.m.